

GENERAL ORDER XLI

SUBJECT: OFF-DUTY ACTIONS

EFFECTIVE DATE: 01-01-11 **REVIEW DATE:** 03-01-2015

NOTE: This rule or regulation is for internal use only and does not enlarge an officer's civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this directive, if proven, can only form the basis of a complaint by this department and then only in a non-judicial administrative setting.

A. POLICE ACTIVITIES OFF-DUTY IN JURISDICTION

1. Duty of Off Duty Defined. Members of the Department will have regular hours assigned to them for active duty, and when not so employed will be considered "off duty".
2. Recall. During their off-duty time, members of the Department will be subject to recall to duty as needed.
3. Police Action While Off Duty.
 - a. An off-duty officer will act in his official capacity if he becomes aware of an incident requiring immediate police action to safeguard life and property or to prevent the escape of a prisoner.
 - b. An off-duty officer will notify the Police department to dispatch an on-duty officer when he becomes aware of an incident not requiring immediate police action. An officer will notify the Department but take no other action if:
 1. Time is not crucial.
 2. Neither life nor property is threatened.
 3. A prisoner will not escape during the interim.
 - c. An off-duty officer is authorized to carry an off-duty firearm. However, the officer must be certified on the particular weapon and it must be a department approved firearm.
 - d. An off-duty officer will act in his official capacity when in other jurisdictions should he observe person(s) in immediate danger of death and no local law enforcement officers are available to take law enforcement action.
4. Neighborhood Disputes. Officers will not intentionally become involved in neighborhood quarrels or disputes when off duty. These disputes will be handled by uninterested persons, and an on- duty officer will be called when necessary.
5. Blood Alcohol Tests.

a. An off-duty officer will be required to submit to a blood alcohol test if he is involved in certain, but not all enforcement situations. He will submit to his choice of an alcohol test of his blood, breath or urine immediately after an incident if:

1. He uses force to subdue suspect.
2. He injures or kills suspect.
3. He feels he should document his sobriety.

b. An off-duty officer will not be required to submit to a blood alcohol test when involved in a law enforcement situation if:

1. He is working in any other law enforcement capacity, and there is no question of his sobriety.

B. POLICE ACTIVITIES ON DUTY OUT OF JURISDICTION

1. Go to a safe location and call 911.
2. When you encounter a situation off-duty that seems to require police action, you must consciously evaluate whether your involvement is necessary or desirable, given the circumstances. How important and urgent is the need for your intervention?

A number of circumstances may impact your decision to get involved in any situation. First, you may be alone, with family members or other non-police personnel. Second, it is unlikely that you will have all of the necessary police equipment while off-duty, for example; pepper spray, baton, handcuffs or radio. You may be faced with multiple suspects or unaware of hidden suspects. There may also be environmental factors working against you such as: lack of cover, crowds of civilians, darkness, etc. Your intervention may actually spark an escalation of violence.

3. Your best plan of action may be to gather accurate intelligence like a good witness.

Remember, you have NO LEGAL OR DEPARTMENTAL obligation to get involved, especially if such intervention places you in a position of peril or such intervention requires that you behave recklessly, carelessly or in a suicidal manner. While department policy mandates that you “take no action” when witnessing a serious crime, that obligation is fulfilled by calling the police and monitoring the situation from a SAFE distance.

Most survival-conscious officers have trained themselves NOT to intervene off-duty UNLESS their life or the life of another innocent party is IMMINENTLY in danger. In other words, you should only consider intervention when deadly force would be justified. You should not intervene just to make an arrest while off-duty. The decision to take action, beyond simply reporting, is a personal one and is not a requirement of this department.

4. If you decide you must get involved, attempt to have someone call 911 advising the operator that an off-duty officer is on scene. Have the caller inform the operator if you are armed. If possible, have them describe you and your clothing. This will affect the mindset of the responding officers. When uniformed police officers arrive, have your badge out and visible. (if you carry your shield while off-duty, some officers carry only their photo credentials). Do no rely on showing your identification as a means of

providing any protection. At a distance, in dim light and under stress, your badge may not be seen. Or, the identification may not be given credibility if the responding officers do not recognize you personally.

Some trainers advise officers to hold their badge next to their gun for the best chance of being seen because the eyes of the responding officers are most likely to go immediately to your drawn firearm. You're probably safer to RE-HOLSTER your gun when other officers arrive, unless doing so would put you and the responding officers or innocent civilians, in jeopardy. Until the responding officers sort out who is who, your gun is your greatest personal liability.

5. If you have cover, maintain it. You can communicate verbally from there.

6. Make your hands visible. Having responding officers see that you are unarmed and non-threatening will work to calm them and protect you.

7. Verbally identify yourself as a police officer-not once and not in a normal tone of voice, but repeatedly and very loud. Keep shouting out: "POLICE! DON'T SHOOT! OFF-DUTY OFFICER!" until you get acknowledgment and directions as to what you should do. Remember, the noise and excitement of the scene, combined with the stress induced auditory blocking may prevent responding officers from hearing you initially.

8. When commands are issued by the responding officers, follow them promptly and completely. Expect to be treated like a suspect until law enforcement status is verified.

9. When carrying a firearm off-duty (including finishing or beginning your tour of duty), it shall be concealed from public view by an outer jacket, shirt, sweater etc. If an off-duty officer's firearm is observed and prompts the response of police or security officials, the off-duty officer should respond in a manner consistent with this policy.

10. Finally, the most important rule of all: If you have a gun in your hand, NEVER, EVER turn toward an on-duty officer.

Reporting/Compliance:

Whenever an officer becomes involved in an incident while in an off-duty capacity, he or she shall notify his commanding officer (supervisor) or if unavailable the Asst. Chief of Police as soon as possible. The supervisor shall require a written report on the incident that will be forwarded to the Chief of Police. This report shall also be reviewed to evaluate and update training for "off-duty" response.

A. This policy is issued by the authority of the Chief of Police. Any policy additions, deviations or revisions shall be made only at the direction of the Chief of Police.

By Authority of:

Jeffrey S. Head, Chief of Police